

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 4TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION No.16291/94 C/W

WRIT PETITION No.28513/94

(IN W.P.No.16291/1994)

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BETWEEN:

Mandar,  
S/o.Dattatreya Kulkarni,  
by his Special Power of  
Attorney Holder  
Sri Suresh B.Hukkeri,  
aged about 42 years,  
Occupation - Service &  
Agriculture, Residing at  
No. 1160, 2nd Main,  
II Block, BEL Layout,  
Vidyaranya Pura,  
Bangalore-560 013.

..PETITIONER

(By Sri R.B. Guttal, Advocate)

AND:

1. Smt. Narmada Bai,  
W/o.Narayana Rao,  
Nadagowda, by her  
General Power of Attorney  
Holder Sri.Anand, S/o.  
Krishnoji Kulkarni,  
residing at Vaderahatty,  
Gokak Taluk.

2. Land Tribunal at Gokak,  
by its Chairman, Gokak Taluk. ..RESPONDENTS

(By Sri Ravi.S.Balkai for R-1,  
Mrs. Bharathi Nagesh, HCGP for R-2)

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This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to set aside the order No.L.R.A. B.K.: Vadera-hatty, 3/55, Gokak, dated 9.2.94 at Annexure-E etc.,

(IN W.P.No.28513/94)

BETWEEN:

Smt.Narmadabai,  
W/o.Narayan Rao,  
Nadagouda, Age: 74 years,

By her Power of Attorney  
Holder, Anand, S/o.  
Krishnaji Kulkarni,  
Age: 27 years,  
R/o. Vaderatti,  
Tal: Gokak,  
Dist: Belgaum.

..PETITIONER

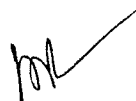
(By Sri Ravi.S.Balikai, Advocate)

AND:

1. The Land Tribunal, Gokak,  
by its Chairman, Gokak,  
Dist: Belgaum.
2. The State of Karnataka,  
by its Secretary to the  
Revenue Department,  
M.S.Building,  
Dr.Ambedkar Road,  
Bangalore-560 001.
3. Mandar, Dattatraya.Kulkarni,  
Age: major, By his P.A.Holder,  
Suresh. B. Hukkeri, Age: major,  
Occ: Service, R/o. No.1160,  
2nd Main, II Block, BEL Layout,  
Vidyaranyapura, Bangalore-13.

..RESPONDENTS

(By Sri R.B.Guttal for R-3,  
M/s.Bharathi Nagesh, HOGP for R-1&2)



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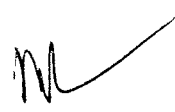
This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to quash the order of the Land Tribunal dated 15.12.1977 vide Annexure-A etc.,

These Writ Petitions are coming on for preliminary hearing this day, the Court made the following:-

O R D E R

In both these writ petitions one is the tenant and the other is the landlord challenging the impugned orders.

2. The petitioner-tenant in W.P.28513/94 has challenged the legality and validity of the impugned order at Annexure-A contending that the said order is nullity in the eye of law as it is not signed by the Land Tribunal members and the chairman as required under the provisions of the Karnataka Land Reforms Act, 1961. The learned counsel for the petitioner Sri.Ravi.S.Balikai placed strong reliance on the judgment of this Court reported in GANGADHARAYYA GURUSIDDAIAH NARENDRA MATH vs. LAND TRIBUNAL, HALIYAL & ANOTHER (1979(2) Kar.L.J. page 15) for the proposition that an order cannot be said to be the order of the Tribunal in the eye of law, where it was signed only by the Chairman of the Tribunal and it does not disclose that the other members of the Tribunal



had taken part in the deliberations and while passing of the impugned order. Therefore, he submits that on this short ground the impugned order in the writ petition is liable to be quashed.

3. Petitioner-landlord in other writ petition No.16291/94 has challenged the impugned order at Annexure-E dated 9.2.1994 mainly on the ground that the Tribunal had no jurisdiction to reopen the enquiry and grant occupancy rights in favour of the tenant who is petitioner in the first petition. It is stated that his Form No.7 was rejected by the Tribunal by its order dated 15.12.1977. It is also further contended that unless that order was challenged and quashed by this Court, it was not open for the Tribunal to reopen the matter again and grant occupancy rights in favour of the so-called tenant petitioner in the first petition. The learned counsel further submits that the order is not sustainable in law as the Tribunal has not given sufficient and adequate opportunity to his client to place material on record to show that the claim of the petitioner in the first writ petition is not tenable as the land in question was not a tenanted

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land at any point of time. He further submits that the decision is taken by the Tribunal to grant occupancy rights in favour of the petitioner Smt. Narmadabai Nadagouda without taking into consideration the documentary evidence for the relevant year. The Tribunal has placed reliance on the solitary statement of the witness Balappa Lakkappa Bhilstannavar whose testimony is not trustworthy. Therefore, he submits that the impugned order challenged in this writ petition is liable to be quashed.

4. I have perused the averments of both the writ petitions and the impugned orders. As could be seen from the impugned order at Annexure-A dated 15.12.1977, the submission of the learned counsel Mr. Ravi S. Balikai is correct. The said order is signed by the Chairman alone. It is not signed by the other members of the Tribunal. Therefore, I hold that the said order is not an order passed by the Tribunal. Hence it is nullity in the eye of law. On this short ground the said order is liable to be quashed.

5. The submission of the learned counsel for



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the petitioner Mr. Guttal appearing in the connected writ petition is also tenable for the reason that the earlier order was not challenged by the so-called tenant. Unless that order is quashed by this Court, Tribunal has no jurisdiction to reopen the matter and conduct an enquiry and grant occupancy rights in favour of the petitioner in the first writ petition.

6. Taking into consideration the facts and circumstances of this case and the way in which the Tribunal has passed the order dated 15.12.1977 and notice issued to the petitioner in the first petition intimating him that he <sup>claim</sup> would be enquired on 20.5.1985, <sup>which</sup> <sup>m</sup> ~~creating~~ an impression to the petitioner that no order came to be passed by the Tribunal rejecting the application. In my view, it is a proper and fit case to quash both the orders and to remit the matters for fresh disposal. Hence, I pass the following order:

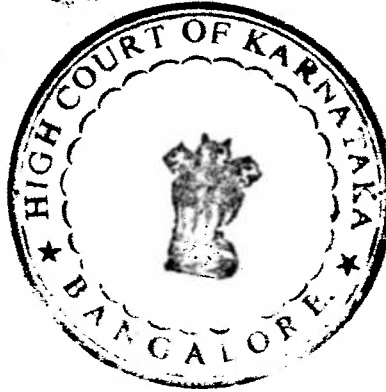
Writ Petitions are allowed. Rule issued in both the writ petitions are made absolute. The orders impugned in the respective petitions are hereby quashed. The matters <sup>are</sup> remitted back

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to the Land Tribunal, Gokak, for fresh consideration after giving <sup>an</sup> opportunity <sup>to</sup> both the parties and to dispose of the same in accordance with law within six months from the date of receipt of this order. No costs.

<sup>Advocate M</sup>  
Government ~~Advocate~~ is permitted to file  
Memo of Appearance within two weeks from today.



Sd/-  
JUDGE

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Bg/-270698